

Interim Decision #2115

MATTER OF NORTHWEST AIRLINES AIRCRAFT, "FLIGHT NUMBER 4"

In Fine Proceedings

SEA-10/61.167

Decided by Board November 12, 1971

(a) Where an arriving alien withdrew his application for admission, was remanded to the custody of the carrier, notice was thereupon served upon the carrier to remove him from the United States, and the alien thereafter absconded, liability to fine is incurred under section 271 of the Immigration and Nationality Act for failure to prevent his unauthorized landing.

(2) Where, without further safeguards, the carrier took the alien involved to the hotel and advised the hotel manager the alien would be picked up the following morning for deportation, mitigation of the \$1,000 imposed fine beyond the extent of \$300 is not warranted, since there is no indication the carrier exerted earnest efforts to locate the alien after he absconded and the alien is still at large in this country.

BASIS FOR FINE: Act of 1952—Section 271(a) [8 U.S.C. 1323]

IN RE: NORTHWEST AIRLINE AIRCRAFT, "*Flight Number 4*," which arrived at the port of Seattle, Washington, from foreign, on May 5, 1971. Alien passenger involved: CANISIO BUENA, JR. aka TEDDY VILLAFLO

ON BEHALF OF CARRIER:
Clifford O. Weiger, Director—
Facilitation
Northwest Airlines, Inc.
Minneapolis-St. Paul International Airport
St. Paul, Minnesota 55111

ON BEHALF OF SERVICE:
Robert A. Vielhaber
Appellate Trial Attorney

The District Director, Seattle, Washington, in a decision dated June 21, 1971, held that Northwest Airlines, Inc., as owners/operators of the above-described aircraft, had incurred liability to an administrative penalty of \$1,000 for failure to prevent the illegal landing of the above-named alien passenger in the United States at a time and place other than as designated by an immigration officer. However, said official found present herein factors which, in his opinion, merited mitigation of the penalty to